

**EL DORADO COUNTY DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: September 3, 2008
Item No.: 4.a.
Staff: Tom Dougherty

CERTIFICATE OF COMPLIANCE

FILE NUMBER: COC06-0063

APPLICANT: Andrew Hall

REQUEST: Certificate of Compliance for Assessor's Parcel Number 093-270-01, created by Gift Deed transferring 26 acres of a 40-acre parcel recorded in Book 3462 at Page 489 on November 15, 1990.

LOCATION: On the southwest side of Sweeney Road approximately 1.5 miles north of the intersection with Grizzly Flat Road in the Grizzly Flat area, Supervisorial District II. (Exhibit A)

APN: 093-270-01 (Exhibit B1)

ACREAGE: 26.20 acres

GENERAL PLAN: Natural Resource (NR) (Exhibit C)

ZONING: Residential Agricultural 20-Acre (RA-20) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Negative Declaration

RECOMMENDATION: Staff recommends the Zoning Administrator take the following actions:

1. Adopt the Negative Declaration based on the Initial Study prepared by staff, and,
2. Issue a Conditional Certificate of Compliance, subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

BACKGROUND: This application is a request for a certificate of compliance on Assessor's Parcel Number 093-270-01, which will acknowledge the County's acceptance of the parcel as

legally created accordance with the Subdivision Map Act and local subdivision ordinances. The County's issuance of a certificate of compliance on the parcel would allow development of the property consistent with the Residential Agricultural 20-Acre Zone District, which allows a single-family residence and accessory uses and structures.

Without the certificate of compliance the County cannot issue any development permits, including building permits. In this instance, the parcel would be issued a conditional certificate of compliance requiring specific conditions be completed prior to the issuance of an unconditional or *clear* certificate of compliance. The parcel cannot be developed until such time as a *clear* certificate of compliance is recorded.

Subsequent to this subject certificate of compliance application, the parcel owners applied for a certificate of compliance to recognize the parcel with the Surveyor's Office who referred the application to Planning Services since the property was the result of a division of land after March 4, 1972. Further, it was not done under the guidelines of any local ordinance or with the benefit of a Parcel or Subdivision Map.

The parent parcel, of this parcel requesting the COC, was comprised of the Southwest quarter of the Southwest quarter of Section 12 and the West half of the Northwest quarter of the Northwest quarter of Section 13, T. 9 N., R 12 E, M.D.M, all as one parcel and transferred as such by deed in Book 225 at Page 149, to the California Door Co., until it was transferred as Parcels 1, 2 and 3 by deed in Book 1712 at Page 485 from Bendix Forest Products Corp. on December 29, 1978 on a single deed, which did not effect any division.

On October 13, 1981, Ken Kelley by grant deed conveyed a piece of land North of Sweeney Road, as a sale per deed 2021-184. On November 15, 1990, Walton Burren conveyed what is now APN 093:270:01 as a sale per Grant deed in Book 3462 at Page 490 which is the date of creation of this parcel.

The applicants acquired the subject property by Quitclaim Deed on October 10, 2007. As such, the County may issue a conditional certificate of compliance and impose any conditions that would have been applicable to the division of the property at the time the applicant acquired interest in the properties pursuant to *Government Code Section 66499.35(b)*.

STAFF ANALYSIS

Project Description: Certificate of Compliance for Assessor's Parcel Number 093-270-01, which would acknowledge the County's acceptance of the parcel as legally created accordance with the Subdivision Map Act and local subdivision ordinances. The parcel would be served by a future well and onsite septic wastewater system. The parcel takes access directly from Sweeney Road and improvements would be made to the interior access road as well as Sweeney Road to meet California SRA Firesafe Regulations, and the California Fire Code 2007 Edition for access and water supply.

Site Description: The site is located on a 26.20-acre parcel located at the 2,740 to 2,800-foot elevations above sea level. The parcel is covered primarily with conifers with some scattered black oaks. The parcel was recently logged and there are remnants of the old Caldor Railroad on the site. The interior access roads serve three other parcels and those roads and a building pad area for the subject parcel are rough-graded in.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	RA-20	NR	Vacant, 26.20-acre parcel.
North	RA-20	NR	Vacant, one, 40-acre parcel.
South	RA-20	NR	Single-family residence, 13.80-acre parcel.
East	RA-20	NR	Vacant, 40-acre parcel.
West	RE-10	RR	Single-family residences, some vacant, five one to twelve-acre parcels.

Discussion: The area consists of ranging in size from one to forty-acres in size. The land use designations consist of Rural Residential to the west and Natural Resource in all other directions. The parcel can be found be consistent with the surrounding development.

Project Issues: Discussion items for this project include land use and zone compatibility, road improvements, water and sewer improvements, fire safety, existing site design for grading and improvements, and available public services.

Water System Improvements and Fire Safety: The subject parcel is not located in the El Dorado Irrigation District (EID) service area. Pioneer Fire Protection District raised concerns in a letter dated February 4, 2008 stating that *Sweeney Road into this area is substandard and doesn't meet the local Fire Safe Regulations and portions of the California Fire Code as adopted by the County of El Dorado. Sweeney Road is a narrow paved road for approximately 1.5 miles north of Grizzly Flats Road where it then turns into a dirt road. Areas on Sweeney Road within the 1.5 mile stretch don't allow for fire apparatus & equipment to safely pass other vehicles because of the construction of the road. Vegetation is growing right next to the roadside which is unsafe to local fire agencies responding, our firefighters and to the public in the event of a wildfire incident. If the vegetation burns next to the road, it blocks the ingress and egress of our first responders and the public. Pioneer Fire Protection District can't approve this project request until it meets local Fire Safe Regulations, the California Fire Code and El Dorado County Code requirements. These requirements and codes/regulations and are in place to protect our first responders and the public in the event of a catastrophic wildfire incident.*

Calfire also raised concerns with the subject request. They stated in a letter dated February 1, 2008 that *Cal Fire's concern in regards to this project is that Sweeney Road into this area is substandard and does not meet the SRA Fire Safe Regulations and portions of the California*

Fire Code as adopted by the County of El Dorado. El Dorado County standards may be more stringent and then would supersede these requirements. Sweeney Road is a narrow paved road for approximately 1.5 miles north of Grizzly Flat Road where it turns into a dirt road. Areas on Sweeney Road within the 1.5 mile stretch do not allow for fire equipment to safely pass other equipment or vehicles because of the construction of the road. Vegetation is growing next to the roadside which is unsafe to fire fighters and the public in the event of a wildland fire. If the vegetation burns next to the road it blocks the access and egress of the fire fighters and the public. Cal Fire cannot approve this project unless it meets applicable SRA Fire Safe Regulations, California Fire Codes, and County of El Dorado Codes. The above mentioned codes and regulations are in place to provide safety to the public and responding agencies in the event of a catastrophic wildland fire.

The project has been conditioned to meet these requirements prior to issuance of a Clear Certificate of Compliance.

Sewer: The Environmental Health Division reviewed the subject application and did not have concerns because of the 20-acre size. Sewer services are not available. Septic disposal for the parcel would be provided by an on-site septic disposal system and would need to be analyzed by the Environmental Health Division for any future single family dwelling. A percolation test would be provided that shows adequate percolation and potential area for an adequate septic system and would be analyzed prior to issuance of a building permit.

Access: Sweeney Road is a County road. There are approximately 100 parcels that use Sweeney Road directly for access between Happy Valley and Grizzly Flat Roads. There are approximately 50 more parcels that partially use Sweeney Road from the Miner's Trail/Old School House Road connection and none of those roads meet current California SRA Firesafe and the California Fire Code 2007 Edition regulations. Under the current land use designations for the area the number of parcels has the potential to increase beyond those numbers in the future. El Dorado County Department of Transportation (DOT), Pioneer Fire Protection District, and Calfire staff have serious concerns for the public safety of those residents in an evacuation situation in an emergency and with the emergency responder's ability to ingress/egress the substandard access roads which have inadequate widths and surfaces for two-way traffic and one vehicle stuck in the mud has the potential to seriously endanger the lives of the residents. El Dorado County Department of Transportation has recommended conditions of approval for the applicant to improve the on-site portion of the access road to the parcel to Standard Plan 101C standards and the off-site portion of Sweeney Road from the parcel to Grizzly Flat Road to the provisions of the SRA Fire Safe Regulations.

General Plan: The subject property is designated as Natural Resource (NR) on the General Plan Land Use Map. The NR land use designation establishes areas *that contain economically viable natural resources and to protect the economic viability of those resources and those engaged in harvesting/processing of those resources including water resources development from interests that are in opposition to the managed conservation and economic, beneficial use of those resources.* This designation is typically applied to parcels which are 40 acres or larger in size and contain one or more important natural resource and the expected density of one dwelling per 40 acres. Compatible uses may include *agriculture, rangeland, forestry, wildlife management,*

recreation, water resources development, and support single-family dwellings. The subject parcel is 26.2 acres in size which is less than the required size of the land use area but does conform to the zone district minimum size of 20 acres. The single family development that would result from this Certificate of Compliance is consistent with this land use designation. The following General Plan policies apply to this project:

Policy 2.1.1.7 directs that development be limited in some cases until such time as adequate roadways, utilities, and other public service infrastructure becomes available and wildfire hazards are mitigated. The Pioneer Fire Protection District has conditioned the project to meet fire safe requirements prior to issuance of a clear Certificate of Compliance. Power and telephone services are available in the parcel vicinity. The project is conditioned to provide that minimum road requirements are made to meet SRA Fire Safe Regulations as well as those of the 2007 California Fire Code.

Policy 2.2.5.21 directs that new development be compatible with the surrounding neighborhood. The parcel size is consistent with the development pattern for the area.

Policy 6.2.3.2 directs that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area. As conditioned, and discussed under *Access* in the Project Issues section, the project would meet the intent of this policy.

Conclusion: The project has been reviewed in accordance with the General Plan policies and it has been determined that the project is consistent with the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

Zoning: The subject parcel is zoned Residential Agricultural 20-acre Residential (RA-20) which permits a minimum parcel size of 20 acres. All development on the parcel is subject to the development standards contained in Section 17.30.010 through 17.30.050 of the County Code. The project parcel size is 26.2 acres and meets the minimum parcel size requirement.

Conclusion: As discussed above, and as conditioned, staff finds that the project can be found to be consistent with the RA-20 Zoning District and that the necessary findings can be made to support the request for a Certificate of Compliance. The details of those findings are contained in Attachment 2.

Authority to Issue a Conditional Certificate of Compliance: Section 16.76.050 of County Code states that the Subdivision Map Act requires conditional certificates of compliance be issued on certain types of parcels which were created in violation of the Subdivision Map Act. A local agency may impose any conditions that would have been applicable to the division of the property at the time the current owner(s) acquired his or her interest, except that where the current owner(s) was involved in the initial land division violation, then the local agency may impose any conditions that would be applicable to a current division of the property. The current owners received title on October 10, 2007. Section 16.44.120, Design Criteria of the El Dorado County Code establishes the design criteria and improvements made and installed in conjunction with the approval of maps. The project would be conditioned by the El Dorado County

Department of Transportation and Planning Services for those criteria as applicable to the subject request.

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Environmental Checklist with Discussion attached) to determine if the project has a significant effect on the environment. Based on the Initial Study, staff has determined that there is no substantial evidence that the proposed project, as conditioned, will have a significant effect on the environment, and a Negative Declaration has been prepared.

This project is located within or adjacent to an area which has wildlife resources (riparian lands, wetlands, watercourse, native plant life, rare plants, threatened and endangered plants or animals, etc.), and was referred to the California Department of Fish and Game. In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee of \$1,876.75 after approval, but prior to the County filing the Notice of Determination on the project. This fee, plus a \$50.00 recording fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$1,876.75 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the States fish and wildlife resources.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A1	G.I.S. Vicinity map
Exhibit A2	Compass vicinity map
Exhibits B1, B2	Assessor's Parcel Number maps for subject parcel and surrounding parcels
Exhibit C	General Plan Land Use map
Exhibit D	Zoning map
Exhibit E	Applicant submitted site plan
Exhibit F	Sly Park U.S.G.S. Quadrangle
Exhibit G	Soils map
Exhibits H1, H2	Aerial photos
Exhibit I	Draft Negative Declaration

ATTACHMENT 1
CONDITIONS OF APPROVAL
CERTIFICATE OF COMPLIANCE

File Number COC06-0063

July 2, 2008

CONDITIONS OF APPROVAL

Planning Services

1. This certificate of compliance is based upon and limited to compliance with the project description, the Zoning Administrator hearing exhibits marked Exhibit A through I dated July 2, 2008, and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Certificate of Compliance for Assessor's Parcel Number 093-270-01 which will acknowledge the County's acceptance of the parcel as legally created accordance with the Subdivision Map Act and local subdivision ordinances.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Services Site Specific and Standard Conditions

2. In the event of the discovery of human remains, all work is to stop and the County coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.
3. The applicant shall be required to pay Park-in-Lieu fee of \$150.00 payable to El Dorado County, pursuant to El Dorado County Subdivision Ordinance Chapter 16.12.090. A receipt showing compliance with this condition shall be submitted by the applicant to the Planning Services prior to issuance of a Clear Certificate of Compliance.

4. All Planning Services fees shall be paid immediately following the ten-day appeal period following the date of Zoning Administrator hearing that approves the subject application request.
5. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The applicant shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval by El Dorado County of the Certificate of Compliance.

County shall notify the applicant of any claim, action, or proceeding and County will cooperate fully in the defense.

El Dorado County Department of Transportation

6. The applicant shall improve the on-site unnamed road and the on-site portion of Sweeney Road to the standard of a 18-foot wide roadway and 1-foot shoulders per Standard Plan 101 C (including signage as necessary - stop signs, street name signs, "not a county maintained road", etc.), prior to issuance of a Clear Certificate of Compliance.
7. The applicant shall improve the off-site portion of Sweeney Road, to Grizzly Flat Road, to the provisions of the SRA Fire Safe Regulations. All said improvements shall be accomplished prior to issuance of a Clear Certificate of Compliance.
8. The applicant shall irrevocably offer to dedicate all on-site 50-foot wide road and public utility easement for the unnamed on-site access roadway, prior to approval of the COC. This offer will be rejected by the County.
9. The applicant shall irrevocably offer to dedicate, in fee, a 50-foot wide road and public utility easement for the on-site portion of Sweeney Road, prior to approval of the COC. This offer will be accepted by the County.
10. The applicant shall join and/or form an entity, satisfactory to DOT, to maintain all on-site roads and/or drainage facilities not maintained by the County, which is required for access to a County maintained roadway and shall be accomplished prior to issuance of a Clear Certificate of Compliance.
11. All on and off-site road improvement requirements required as conditions of approval and/or mitigation measures shall be analyzed in the environmental document for this development project to the appropriate extent under CEQA. Any improvements that are not thoroughly analyzed shall include a discussion and justification under that particular

impact analysis within the CEQA document as to the circumstances preventing such analysis along with a method and time frame for any future analysis.

12. The developer shall enter into an Improvement Agreement with the County and provide security to guarantee performance of the Improvement Agreement as set forth within the County of EI Dorado Subdivision Ordinance, prior to issuance of a Clear Certificate of Compliance.
13. If site improvements are to be made, the applicant shall submit a site improvement grading plan prepared by a professional civil engineer to the Department for review and approval. The plan shall be in conformance with the County of EI Dorado "Design and Improvement Standards Manual", the "Grading, Erosion and Sediment Control Ordinance", the "Drainage Manual", the "Off-Street Parking and Loading Ordinance", and the State of California Handicapped Accessibility Standards. The improvements shall be substantially completed, to the approval of the Department of Transportation, prior to issuance of a Clear Certificate of Compliance..
14. The applicant shall provide a soils report at time of improvement plan or grading permit application addressing, at a minimum, grading practices, compaction, slope stability of existing and proposed cuts and fills, erosion potential, ground water, pavement section based on TI and R values, and recommended design criteria for any retaining walls.
15. Any import, or export to be deposited within EI Dorado County, shall require an additional grading permit for that off-site grading.
16. The applicant shall provide a drainage report at time of improvement plans or grading permit application, consistent with the Drainage Manual and the Storm Water Management Plan, which addresses storm water runoff increase, impacts to downstream facilities and properties, and identification of appropriate storm water quality management practices to the satisfaction of the Department of Transportation.
17. Upon completion of the improvements required, and prior to acceptance of the improvements by the County, the developer will provide a CD to DOT with the approved drainage and geotechnical reports in PDF format and the approved record drawings in TIF format.
- 18 Applicant shall pay the traffic impact fees in effect at the time a building permit is issued.

Pioneer Fire Protection District

19. The applicant shall provide a Fuel Modification and Wildland Fire Safety Plan, to be prepared by a Registered Professional Forester which shall be reviewed and approved by Pioneer Fire Protection District and California Department of Forestry prior to issuance of a Clear Certificate of Compliance.

20. This project shall meet the requirements of the California SRA Firesafe Regulations, and the California Fire Code 2007 Edition for access and water supply prior to issuance of a Clear Certificate of Compliance.

ATTACHMENT 2
FINDINGS

FILE NUMBER COC06-0063
July 2, 2008

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

FINDINGS FOR APPROVAL

1.0 CEQA Findings

- 1.1 The Zoning Administrator has considered the Negative Declaration together with the comments received and considered during the public review process. The proposed project, as conditioned, will not have a significant effect on the environment. The Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 The Zoning Administrator finds that through feasible conditions placed upon the project, impacts on the environment have been eliminated or substantially mitigated.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services-Planning Services Department at 2850 Fairlane Court, Placerville, CA.

2.0 Administrative Findings

- 2.1 The issuance of the Conditional Certificate of Compliance for APN 093-270-01 meets the requirements of the *Subdivision Map Act* and *County Code Title 16* because the County would now be assuring the parcel is self sustaining in access, safety and ability to support residential use and that a legitimate transfer took place and with an accurate legal description.

3.0 General Plan Consistency Findings

- 3.1 The proposed Certificate of Compliance, as conditioned, is consistent with the Natural Resource General Plan land use designation for parcel size, density and land use.
- 3.2 The proposal, as conditioned, is consistent with the intent of Policies 2.1.1.7, 2.2.5.21, 5.7.1.1, and 6.2.3.2 because there are adequate roadways, utilities, and other public service infrastructure available. The project is consistent with the dominant lot pattern of development in the direct project vicinity and wildfire hazards have been addressed with the implementation of the conditions of approval.

4.0 Zoning Findings

- 4.1 The project is zoned residential Agricultural 20-Acre (RA-20) which establishes a minimum parcel size of 20 acres. The project would legalize a parcel 26.2 acres in size which is consistent within the RA-20 zone district. The proposed parcel conforms to existing zoning.